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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

Barbara Hubbard, Plaintiff, vs. Pizza Hut, Inc. dba Pizza Hut #315059; Jehova Jireh, Inc. dba Subway; Hanaoka Enterprises, Inc. dba Hanaoka Japanese Restaurant; Clementina Deniz dba Casa de Oro, Defendants.	No. '08 CV 1111 L NLS **Plaintiff's Complaint**

I. SUMMARY

1. Ther is a civil rights action by plaintiff Matt Hubbard ("Hubbard") for discrimination at the building, structure, facility, complex, property, land, development, and/or surrounding business complexes known as:

Pizza Hut #315059
1838 Sweetwater Road
National City, CA 91950
(hereafter "the Pizza Hut Facility")

Subway #4623
1860 Sweetwater Road, Suite "C"
National City, CA 91950
(hereafter "the Subway Facility")

Hanaoka Japanese Restaurant
1528 Sweetwater Road, Suite "C"
National City, CA 91950
(hereafter "the Hanaoka Facility")

Casa de Oro
1510 Sweetwater Road, Suite "A"
National City, CA 91950
(hereafter "the Casa de Oro Facility")

(hereafter collectively referred to as "the facilities")

2. Pursuant to the Americans with Disabilities Act of 1990, (42 U.S.C. §§ 12101 et seq.), and related California statutes, Hubbard seeks damages, injunctive and declaratory relief, and attorney fees and costs, against:

- Pizza Hut, Inc. dba Pizza Hut #315059 (hereinafter the "Pizza Hut Defendant")
- Jehova Jireh, Inc. dba Subway #4623 (hereinafter the "Subway Defendant")

- Hanaoka Enterprises, Inc. dba Hanaoka Japanese Restaurant (hereinafter the "Hanaoka Defendant")
- Clementina Deniz dba Casa de Oro (hereinafter the "Casa de Oro Defendant")

II. JURISDICTION

3. This Court has original jurisdiction under 28 U.S.C. §§ 1331 and 1343 for ADA claims.

4. Supplemental jurisdiction for claims brought under parallel California law—arising from the same nucleus of operative facts—is predicated on 28 U.S.C. § 1367.

5. Hubbard's claims are authorized by 28 U.S.C. §§ 2201 and 2202.

III. VENUE

6. All actions complained of herein take place within the jurisdiction of the United States District Court, Southern District of California, and venue is invoked pursuant to 28 U.S.C. § 1391(b), (c).

IV. PARTIES

7. The Pizza Hut Defendant owns, operates, and/or leases the Pizza Hut Facility, and consists of a person (or persons), firm, and/or corporation.

8. The Subway Defendant owns, operates, or leases the Subway Facility, and consists of a person (or persons), firm, and/or corporation.

9. The Hanaoka Defendant owns, operates, or leases the Hanaoka Facility, and consists of a person (or persons), firm, and/or corporation.

10. The Casa de Oro Defendant owns, operates, or leases the Casa de Oro Facility, and consists of a person (or persons), firm, and/or corporation.

11. Hubbard has multiple conditions that affect one or more major life functions. She requires the use of motorized wheelchair and a mobility-equipped vehicle, when traveling about in public. Consequently, Hubbard is "physically

disabled," as defined by all applicable California and United States laws, and a member of the public whose rights are protected by these laws.

V. FACTS

12. The Pizza Hut Facility is an establishment serving food and drink, open to the public, which is intended for nonresidential use and whose operation affects commerce.

13. The Subway Facility is an establishment serving food and drink, open to the public, which is intended for nonresidential use and whose operation affects commerce.

14. The Hanaoka Facility is an establishment serving food and drink, open to the public, which is intended for nonresidential use and whose operation affects commerce.

15. The Casa de Oro Facility is an establishment serving food and drink, open to the public, which is intended for nonresidential use and whose operation affects commerce.

16. Hubbard visited these facilities and encountered barriers (both physical and intangible) that interfered with—if not outright denied—her ability to use and enjoy the goods, services, privileges, and accommodations offered at all of the facilities.

17. To the extent known by Hubbard, the barriers at the Pizza Hut Facility included, but are not limited to, the following:

- There is no International Symbol of Accessibility (hereinafter referred to as "ISA") mounted at the entrance to indicate whether this facility is accessible to the disabled;
- The counter is too high and there is no portion lowered to accommodate patrons in wheelchairs;
- The salad counter is too high and there is no portion lowered to accommodate patrons in wheelchairs;

- The condiment counter is too high and there is no portion lowered to accommodate patrons in wheelchairs;
- The takeout service counter is too high and there is no portion lowered to accommodate patrons in wheelchairs;
- There is no seating designated as being accessible to the disabled;
- There is no disabled seating;
- There is no signage provided on the strike side of the door to the restroom;
- The stall door is not self closing;
- The water closet is an obstruction to the disposable seat cover dispenser;
- The disposable seat cover dispenser is mounted behind the water closet thereby causing it to be out of the required reach range limits;
- The disposable seat cover dispenser is mounted at more than 40 inches from the floor;
- The toilet tissue dispenser protrudes into the clear maneuvering space needed to access the water closet;
- The soap dispensers are out of the required reach range limits
- The operable part of the paper towel dispenser is mounted at more than 40 inches from the floor;
- The trash receptacle is an obstruction to the use of the hand dryer;
- The lavatory controls require pinching, twisting and/or grasping to operate;
- The pipes underneath the lavatory are not wrapped to insulate from burns;
- The lock on the restroom door requires pinching, twisting, and/or grasping; and,
- There is insufficient strike side clearance when leaving the restroom.

These barriers prevented Hubbard from enjoying full and equal access at the Pizza Hut Facility.

18. Hubbard was also deterred from visiting the Pizza Hut Facility because she knew that the Pizza Hut Facility's goods, services, facilities, privileges, advantages, and accommodations were unavailable to physically disabled patrons (such as herself). She continues to be deterred from visiting the Pizza Hut Facility because of the future threats of injury created by these barriers.

19. To the extent known by Hubbard, the barriers at the Subway Facility included, but are not limited to, the following:

- There is no ISA mounted on the latch side of the entrance door;
- There is no 36 by 24 inch clear floor space at the cash register;
- There is no seating designated as being accessible to the disabled;
- There is no disabled seating;
- The toilet tissue dispenser protrudes into the clear maneuvering space needed to access the water closet;
- The trash receptacle is an obstruction to the use of the water closet;
- The side grab bar is not mounted 12 inches from the back wall;
- The side grab bar does not extend 24 inches in front of the water closet;
- The water closet is an obstruction to the disposable seat cover dispenser;
- The disposable seat cover dispenser is mounted behind the water closet thereby causing it to be out of the required reach range limits;
- The disposable seat cover dispenser is mounted at more than 40 inches from the floor;
- The pipes underneath the lavatory are improperly and/or incompletely wrapped; and,
- The operable part of the paper towel dispenser is mounted at 49 inches from the floor.

These barriers prevented Hubbard from enjoying full and equal access at the Subway Facility.

20. Hubbard was also deterred from visiting the Subway Facility because she knew that the Subway Facility's goods, services, facilities, privileges, advantages, and accommodations were unavailable to physically disabled patrons (such as herself). She continues to be deterred from visiting the Subway Facility because of the future threats of injury created by these barriers.

21. To the extent known by Hubbard, the barriers at the Hanaoka Facility included, but are not limited to, the following:

- There is no ISA mounted on the latch side of the entrance door;
- The mats at the entrance are not securely attached to the floor;
- The stall door swings into the stall;
- There is no latch on the stall door;
- The flush valve is mounted on the wrong side of the water closet tank;
- The side grab bar does not extend 24 inches in front of the water closet;
- water closet is an obstruction to the disposable seat cover dispenser;
- The disposable seat cover dispenser is mounted behind the water closet thereby causing it to be out of the required reach range limits;
- The disposable seat cover dispenser is mounted at more than 40 inches from the floor;
- One toilet tissue dispenser is mounted too low, while the other is mounted too high and is an obstruction to the use of the side grab bar;
- The pipes underneath the lavatory are not properly and/or are incompletely wrapped;
- There is no clear knee space provided at the lavatory;
- The mirror is mounted at more than 40 inches from the floor;
- The operable part of the soap/hand sanitizer dispenser is mounted at more than 40 inches from the floor; and,
- The operable part of the paper towel dispenser is mounted at more than 40 inches from the floor.

These barriers prevented Hubbard from enjoying full and equal access in the Hanaoka Facility.

22. Hubbard was also deterred from visiting the Hanaoka Facility because she knew that the Hanaoka Facility's goods, services, facilities, privileges, advantages, and accommodations were unavailable to physically disabled patrons (such as herself). She continues to be deterred from visiting the Hanaoka Facility because of the future threats of injury created by these barriers.

23. To the extent known by Hubbard, the barriers at the Casa de Oro Facility included, but are not limited to, the following:

- The signage provided at the restroom is not correct;
- The restroom door requires twisting, pinching, and/or grasping to operate;
- The water closet is an obstruction to the disposable seat cover dispenser;
- The disposable seat cover dispenser is mounted behind the water closet thereby causing it to be out of the required reach range limits;
- The disposable seat cover dispenser is mounted at more than 40 inches from the floor;
- The mirror is mounted at more than 40 inches from the floor;
- The soap dispenser is mounted at more than 40 inches from the floor;
- The paper towel dispenser is mounted at more than 40 inches from the floor; and,
- The pipes underneath the lavatory are not properly and/or are incompletely wrapped.

These barriers prevented Hubbard from enjoying full and equal access.

24. Hubbard was also deterred from visiting the Casa de Oro Facility because she knew that the Casa de Oro Facility's goods, services, facilities, privileges, advantages, and accommodations were unavailable to physically disabled patrons (such as herself). She continues to be deterred from visiting the

Casa de Oro Facility because of the future threats of injury created by these barriers.

25. Hubbard also encountered barriers at the facilities, which violate state and federal law, but were unrelated to her disability. Nothing within this Complaint, however, should be construed as an allegation that Hubbard is seeking to remove barriers unrelated to her disability.

26. The Pizza Hut Defendant knew that these elements and areas of the Pizza Hut Facility were inaccessible, violate state and federal law, and interfere with (or deny) access to the physically disabled. Moreover, the Pizza Hut Defendant has the financial resources to remove these barriers from the Pizza Hut Facility (without much difficulty or expense), and make the Pizza Hut Facility accessible to the physically disabled. To date, however, the Pizza Hut Defendant refuses to either remove those barriers or seek an unreasonable hardship exemption to excuse non-compliance.

27. At all relevant times, the Pizza Hut Defendant has possessed and enjoyed sufficient control and authority to modify the Pizza Hut Facility to remove impediments to wheelchair access and to comply with the Americans with Disabilities Act Accessibility Guidelines and Title 24 regulations. The Pizza Hut Defendant has not removed such impediments and has not modified the Pizza Hut Facility to conform to accessibility standards. The Pizza Hut Defendant has intentionally maintained the Pizza Hut Facility in its current condition and has intentionally refrained from altering the Pizza Hut Facility so that it complies with the accessibility standards.

28. Hubbard further alleges that the (continued) presence of barriers at the Pizza Hut Facility is so obvious as to establish the Pizza Hut Defendant's discriminatory intent.[1] On information and belief, Hubbard avers that evidence

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[1] E.g., *Gunther v. Lin*, 144 Cal.App.4th 223, fn. 6

of this discriminatory intent includes the Pizza Hut Defendant's refusal to adhere to relevant building standards; disregard for the building plans and permits issued for the Pizza Hut Facility; conscientious decision to the architectural layout (as it currently exists) at the Pizza Hut Facility; decision not to remove barriers from the Pizza Hut Facility; and allowance that the Pizza Hut Facility continues to exist in its non-compliant state. Hubbard further alleges, on information and belief, that the Pizza Hut Defendant is not in the midst of a remodel, and that the barriers present at the Pizza Hut Facility are not isolated (or temporary) interruptions in access due to maintenance or repairs.[2]

29. The Subway Defendant knew that these elements and areas of the Subway Facility were inaccessible, violate state and federal law, and interfere with (or deny) access to the physically disabled. Moreover, the Subway Defendant has the financial resources to remove these barriers from the Subway Facility (without much difficulty or expense), and make the Subway Facility accessible to the physically disabled. To date, however, the Subway Defendant refuses to either remove those barriers or seek an unreasonable hardship exemption to excuse non-compliance.

30. At all relevant times, the Subway Defendant has possessed and enjoyed sufficient control and authority to modify the Subway Facility to remove impediments to wheelchair access and to comply with the Americans with Disabilities Act Accessibility Guidelines and Title 24 regulations. The Subway Defendant has not removed such impediments and has not modified the Subway Facility to conform to accessibility standards. The Subway Defendant has intentionally maintained the Subway Facility in its current condition and has intentionally refrained from altering the Subway Facility so that it complies with the accessibility standards.

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[2] Id.; 28 C.F.R. § 36.211(b)

31. Hubbard further alleges that the (continued) presence of barriers at the Subway Facility is so obvious as to establish the Subway Defendant's discriminatory intent.[3] On information and belief, Hubbard avers that evidence of this discriminatory intent includes the Subway Defendant's refusal to adhere to relevant building standards; disregard for the building plans and permits issued for the Subway Facility; conscientious decision to the architectural layout (as it currently exists) at the Subway Facility; decision not to remove barriers from the Subway Facility; and allowance that the Subway Facility continues to exist in its non-compliant state. Hubbard further alleges, on information and belief, that the Subway Defendant is not in the midst of a remodel, and that the barriers present at the Subway Facility are not isolated (or temporary) interruptions in access due to maintenance or repairs.[4]

32. The Hanaoka Defendant knew that these elements and areas of the Hanaoka Facility were inaccessible, violate state and federal law, and interfere with (or deny) access to the physically disabled. Moreover, the Hanaoka Defendant has the financial resources to remove these barriers from the Hanaoka Facility (without much difficulty or expense), and make the Hanaoka Facility accessible to the physically disabled. To date, however, the Hanaoka Defendant refuses to either remove those barriers or seek an unreasonable hardship exemption to excuse non-compliance.

33. At all relevant times, the Hanaoka Defendant has possessed and enjoyed sufficient control and authority to modify the Hanaoka Facility to remove impediments to wheelchair access and to comply with the Americans with Disabilities Act Accessibility Guidelines and Title 24 regulations. The Hanaoka Defendant has not removed such impediments and has not modified the Hanaoka Facility to conform to accessibility standards. The Hanaoka Defendant

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[3] E.g., *Gunther v. Lin*, 144 Cal.App.4th 223, fn. 6

[4] Id.; 28 C.F.R. § 36.211(b)

has intentionally maintained the Hanaoka Facility in its current condition and has intentionally refrained from altering the Hanaoka Facility so that it complies with the accessibility standards.

34. Hubbard further alleges that the (continued) presence of barriers at the Hanaoka Facility is so obvious as to establish the Hanaoka Defendant's discriminatory intent.[5] On information and belief, Hubbard avers that evidence of this discriminatory intent includes the Hanaoka Defendant's refusal to adhere to relevant building standards; disregard for the building plans and permits issued for the Hanaoka Facility; conscientious decision to the architectural layout (as it currently exists) at the Hanaoka Facility; decision not to remove barriers from the Hanaoka Facility; and allowance that the Hanaoka Facility continues to exist in its non-compliant state. Hubbard further alleges, on information and belief, that the Hanaoka Defendant is not in the midst of a remodel, and that the barriers present at the Hanaoka Facility are not isolated (or temporary) interruptions in access due to maintenance or repairs.[6]

35. The Casa de Oro Defendant knew that these elements and areas of the Casa de Oro Facility were inaccessible, violate state and federal law, and interfere with (or deny) access to the physically disabled. Moreover, the Casa de Oro Defendant has the financial resources to remove these barriers from the Casa de Oro Facility (without much difficulty or expense), and make the facility accessible to the physically disabled. To date, however, the Casa de Oro Defendant refuses to either remove those barriers or seek an unreasonable hardship exemption to excuse non-compliance.

36. At all relevant times, the Casa de Oro Defendant has possessed and enjoyed sufficient control and authority to modify the Casa de Oro Facility to remove impediments to wheelchair access and to comply with the Americans

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5 E.g., *Gunther v. Lin*, 144 Cal.App.4th 223, fn. 6

6 Id.; 28 C.F.R. § 36.211(b)

with Disabilities Act Accessibility Guidelines and Title 24 regulations. The Casa de Oro Defendant has not removed such impediments and has not modified the Casa de Oro Facility to conform to accessibility standards. The Casa de Oro Defendant has intentionally maintained the Casa de Oro Facility in its current condition and has intentionally refrained from altering the Casa de Oro Facility so that it complies with the accessibility standards.

37. Hubbard further alleges that the (continued) presence of barriers at the Casa de Oro Facility is so obvious as to establish the Casa de Oro Defendant's discriminatory intent.[7] On information and belief, Hubbard avers that evidence of this discriminatory intent includes the Casa de Oro Defendant's refusal to adhere to relevant building standards; disregard for the building plans and permits issued for the Casa de Oro Facility; conscientious decision to the architectural layout (as it currently exists) at the Casa de Oro Facility; decision not to remove barriers from the Casa de Oro Facility; and allowance that the Casa de Oro Facility continues to exist in its non-compliant state. Hubbard further alleges, on information and belief, that the Casa de Oro Defendant is not in the midst of a remodel, and that the barriers present at the Casa de Oro Facility are not isolated (or temporary) interruptions in access due to maintenance or repairs.[8]

VI. FIRST CLAIM

Americans with Disabilities Act of 1990

Denial of "Full and Equal" Enjoyment and Use

(The Pizza Hut Facility)

38. Hubbard incorporates the allegations contained in paragraphs 1 through 37 for this claim.

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[7] E.g., *Gunther v. Lin*, 144 Cal.App.4th 223, fn. 6

[8] Id.; 28 C.F.R. § 36.211(b)

39. Title III of the ADA holds as a "general rule" that no individual shall be discriminated against on the basis of disability in the full and equal enjoyment (or use) of goods, services, facilities, privileges, and accommodations offered by any person who owns, operates, or leases a place of public accommodation. 42 U.S.C. § 12182(a).

40. The Pizza Hut Defendant discriminated against Hubbard by denying "full and equal enjoyment" and use of the goods, services, facilities, privileges or accommodations of the Pizza Hut Facility during each visit and each incident of deterrence.

Failure to Remove Architectural Barriers in an Existing Facility

41. The ADA specifically prohibits failing to remove architectural barriers, which are structural in nature, in existing facilities where such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). The term "readily achievable" is defined as "easily accomplishable and able to be carried out without much difficulty or expense." Id. § 12181(9).

42. When an entity can demonstrate that removal of a barrier is not readily achievable, a failure to make goods, services, facilities, or accommodations available through alternative methods is also specifically prohibited if these methods are readily achievable. Id. § 12182(b)(2)(A)(v).

43. Here, Hubbard alleges that the Pizza Hut Defendant can easily remove the architectural barriers at the Pizza Hut Facility without much difficulty or expense, and that the Pizza Hut Defendant violated the ADA by failing to remove those barriers, when it was readily achievable to do so.

44. In the alternative, if it was not "readily achievable" for the Pizza Hut Defendant to remove the Pizza Hut Facility's barriers, then the Pizza Hut Defendant violated the ADA by failing to make the required services available through alternative methods, which are readily achievable.

Failure to Design and Construct an Accessible Facility

45. On information and belief, the Pizza Hut Facility was designed or constructed (or both) after January 26, 1992—independently triggering access requirements under Title III of the ADA.

46. The ADA also prohibits designing and constructing facilities for first occupancy after January 26, 1993, that aren't readily accessible to, and usable by, individuals with disabilities when it was structurally practicable to do so. 42 U.S.C. § 12183(a)(1).

47. Here, the Pizza Hut Defendant violated the ADA by designing or constructing (or both) the Pizza Hut Facility in a manner that was not readily accessible to the physically disabled public—including Hubbard—when it was structurally practical to do so.[9]

Failure to Make an Altered Facility Accessible

48. On information and belief, the Pizza Hut Facility was modified after January 26, 1992, independently triggering access requirements under the ADA.

49. The ADA also requires that facilities altered in a manner that affects (or could affect) its usability must be made readily accessible to individuals with disabilities to the maximum extent feasible. 42 U.S.C. § 12183(a)(2). Altering an area that contains a facility's primary function also requires adding making the paths of travel, bathrooms, telephones, and drinking fountains serving that area accessible to the maximum extent feasible. Id.

50. Here, the Pizza Hut Defendant altered the Pizza Hut Facility in a manner that violated the ADA and was not readily accessible to the physically disabled public—including Hubbard—to the maximum extent feasible.

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[9] Nothing within this Complaint should be construed as an allegation that plaintiff is bringing this action as a private attorney general under either state or federal statutes.

Failure to Modify Existing Policies and Procedures

51. The ADA also requires reasonable modifications in policies, practices, or procedures, when necessary to afford such goods, services, facilities, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter their nature. 42 U.S.C. § 12182(b)(2)(A)(ii).

52. Here, the Pizza Hut Defendant violated the ADA by failing to make reasonable modifications in policies, practices, or procedures at the Pizza Hut Facility, when these modifications were necessary to afford (and would not fundamentally alter the nature of) these goods, services, facilities, or accommodations.

53. Hubbard seeks all relief available under the ADA (*i.e.*, injunctive relief, attorney fees, costs, legal expense) for these aforementioned violations. 42 U.S.C. § 12205.

54. Hubbard also seeks a finding from this Court (*i.e.*, declaratory relief) that the Pizza Hut Defendant violated the ADA in order to pursue damages under California's Unruh Civil Rights Act or Disabled Persons Act.

VII. SECOND CLAIM

Disabled Persons Act

(The Pizza Hut Facility)

55. Hubbard incorporates the allegations contained in paragraphs 1 through 54 for this claim.

56. California Civil Code § 54 states, in part, that: Individuals with disabilities have the same right as the general public to the full and free use of the streets, sidewalks, walkways, public buildings and facilities, and other public places.

57. California Civil Code § 54.1 also states, in part, that: Individuals with disabilities shall be entitled to full and equal access to accommodations,

facilities, telephone facilities, places of public accommodation, and other places to which the general public is invited.

58. Both sections specifically incorporate (by reference) an individual's rights under the ADA. See Civil Code §§ 54(c) and 54.1(d).

59. Here, the Pizza Hut Defendant discriminated against the physically disabled public—including Hubbard—by denying them full and equal access to the Pizza Hut Facility. The Pizza Hut Defendant also violated Hubbard's rights under the ADA, and, therefore, infringed upon or violated (or both) Hubbard's rights under the Disabled Persons Act.

60. For each offense of the Disabled Persons Act, Hubbard seeks actual damages (both general and special damages), statutory minimum damages of one thousand dollars ($1,000), declaratory relief, and any other remedy available under California Civil Code § 54.3.

61. She also seeks to enjoin the Pizza Hut Defendant from violating the Disabled Persons Act (and ADA) under California Civil Code § 55, and to recover reasonable attorneys' fees and incurred under California Civil Code §§ 54.3 and 55.

VIII. THIRD CLAIM

Unruh Civil Rights Act

(The Pizza Hut Facility)

62. Hubbard incorporates the allegations contained in paragraphs 1 through 61 for this claim.

63. California Civil Code § 51 states, in part, that: All persons within the jurisdiction of this state are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

64. California Civil Code § 51.5 also states, in part, that: No business establishment of any kind whatsoever shall discriminate against any person in this state because of the disability of the person.

65. California Civil Code § 51(f) specifically incorporates (by reference) an individual's rights under the ADA into the Unruh Act.

66. The Pizza Hut Defendant's aforementioned acts and omissions denied the physically disabled public—including Hubbard—full and equal accommodations, advantages, facilities, privileges and services in a business establishment (because of their physical disability).

67. These acts and omissions (including the ones that violate the ADA) denied, aided or incited a denial, or discriminated against Hubbard by violating the Unruh Act.

68. Hubbard was damaged by the Pizza Hut Defendant's wrongful conduct, and seeks statutory minimum damages of four thousand dollars ($4,000) for each offense.

69. Hubbard also seeks to enjoin the Pizza Hut Defendant from violating the Unruh Act (and ADA), and recover reasonable attorneys' fees and costs incurred under California Civil Code § 52(a).

IX. FOURTH CLAIM

Denial of Full and Equal Access to Public Facilities

(The Pizza Hut Facility)

70. Hubbard incorporates the allegations contained in paragraphs 1 through 69 for this claim.

71. Health and Safety Code § 19955(a) states, in part, that: California public accommodations or facilities (built with private funds) shall adhere to the provisions of Government Code § 4450.

72. Health and Safety Code § 19959 states, in part, that: Every existing (non-exempt) public accommodation constructed prior to July 1, 1970, which is altered or structurally repaired, is required to comply with thiss chapter.

73. Hubbard alleges the Pizza Hut Facility is a public accommodation constructed, altered, or repaired in a manner that violates Part 5.5 of the Health and Safety Code or Government Code § 4450 (or both), and that the Pizza Hut Facility was not exempt under Health and Safety Code § 19956.

74. The Pizza Hut Defendant' non-compliance with these requirements at the Pizza Hut Facility aggrieved (or potentially aggrieved) Hubbard and other persons with physical disabilities. Accordingly, she seeks injunctive relief and attorney fees pursuant to Health and Safety Code § 19953.

X. FIFTH CLAIM

Americans with Disabilities Act of 1990

Denial of "Full and Equal" Enjoyment and Use

(The Subway Facility)

75. Hubbard incorporates the allegations contained in paragraphs 1 through 74 for this claim.

76. Title III of the ADA holds as a "general rule" that no individual shall be discriminated against on the basis of disability in the full and equal enjoyment (or use) of goods, services, facilities, privileges, and accommodations offered by any person who owns, operates, or leases a place of public accommodation. 42 U.S.C. § 12182(a).

77. The Subway Defendants discriminated against Hubbard by denying "full and equal enjoyment" and use of the goods, services, facilities, privileges or accommodations of the Subway Facility during each visit and each incident of deterrence.

Failure to Remove Architectural Barriers in an Existing Facility

78. The ADA specifically prohibits failing to remove architectural barriers, which are structural in nature, in existing facilities where such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). The term "readily achievable" is defined as "easily accomplishable and able to be carried out without much difficulty or expense." Id. § 12181(9).

79. When an entity can demonstrate that removal of a barrier is not readily achievable, a failure to make goods, services, facilities, or accommodations available through alternative methods is also specifically prohibited if these methods are readily achievable. Id. § 12182(b)(2)(A)(v).

80. Here, Hubbard alleges that the Subway Defendant can easily remove the architectural barriers at the Subway Facility without much difficulty or expense, and that the Subway Defendant violated the ADA by failing to remove those barriers, when it was readily achievable to do so.

81. In the alternative, if it was not "readily achievable" for the Subway Defendant to remove the Subway Facility's barriers, then the Subway Defendant violated the ADA by failing to make the required services available through alternative methods, which are readily achievable.

Failure to Design and Construct an Accessible Facility

82. On information and belief, the Subway Facility was designed or constructed (or both) after January 26, 1992—independently triggering access requirements under Title III of the ADA.

83. The ADA also prohibits designing and constructing facilities for first occupancy after January 26, 1993, that aren't readily accessible to, and usable by, individuals with disabilities when it was structurally practicable to do so. 42 U.S.C. § 12183(a)(1).

84. Here, the Subway Defendant violated the ADA by designing or constructing (or both) the Subway Facility in a manner that was not readily

accessible to the physically disabled public—including Hubbard—when it was structurally practical to do so.[10]

Failure to Make an Altered Facility Accessible

85. On information and belief, the Subway Facility was modified after January 26, 1992, independently triggering access requirements under the ADA.

86. The ADA also requires that facilities altered in a manner that affects (or could affect) its usability must be made readily accessible to individuals with disabilities to the maximum extent feasible. 42 U.S.C. § 12183(a)(2). Altering an area that contains a facility's primary function also requires adding making the paths of travel, bathrooms, telephones, and drinking fountains serving that area accessible to the maximum extent feasible. Id.

87. Here, the Subway Defendant altered the Subway Facility in a manner that violated the ADA and was not readily accessible to the physically disabled public—including Hubbard—to the maximum extent feasible.

Failure to Modify Existing Policies and Procedures

88. The ADA also requires reasonable modifications in policies, practices, or procedures, when necessary to afford such goods, services, facilities, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter their nature. 42 U.S.C. § 12182(b)(2)(A)(ii).

89. Here, the Subway Defendant violated the ADA by failing to make reasonable modifications in policies, practices, or procedures at the Subway Facility, when these modifications were necessary to afford (and would not fundamentally alter the nature of) these goods, services, facilities, or accommodations.

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[10] Nothing within this Complaint should be construed as an allegation that plaintiff is bringing this action as a private attorney general under either state or federal statutes.

90. Hubbard seeks all relief available under the ADA (*i.e.*, injunctive relief, attorney fees, costs, legal expense) for these aforementioned violations. 42 U.S.C. § 12205.

91. Hubbard also seeks a finding from this Court (*i.e.*, declaratory relief) that the Subway Defendant violated the ADA in order to pursue damages under California's Unruh Civil Rights Act or Disabled Persons Act.

XI. SIXTH CLAIM

Disabled Persons Act

(The Subway Facility)

92. Hubbard incorporates the allegations contained in paragraphs 1 through 91 for this claim.

93. California Civil Code § 54 states, in part, that: Individuals with disabilities have the same right as the general public to the full and free use of the streets, sidewalks, walkways, public buildings and facilities, and other public places.

94. California Civil Code § 54.1 also states, in part, that: Individuals with disabilities shall be entitled to full and equal access to accommodations, facilities, telephone facilities, places of public accommodation, and other places to which the general public is invited.

95. Both sections specifically incorporate (by reference) an individual's rights under the ADA. See Civil Code §§ 54(c) and 54.1(d).

96. Here, the Subway Defendant discriminated against the physically disabled public—including Hubbard—by denying them full and equal access to the Subway Facility. The Subway Defendant also violated Hubbard's rights under the ADA, and, therefore, infringed upon or violated (or both) Hubbard's rights under the Disabled Persons Act.

97. For each offense of the Disabled Persons Act, Hubbard seeks actual damages (both general and special damages), statutory minimum damages of one

thousand dollars ($1,000), declaratory relief, and any other remedy available under California Civil Code § 54.3.

98. She also seeks to enjoin the Subway Defendant from violating the Disabled Persons Act (and ADA) under California Civil Code § 55, and to recover reasonable attorneys' fees and incurred under California Civil Code §§ 54.3 and 55.

XII. SEVENTH CLAIM

Unruh Civil Rights Act

(The Subway Facility)

99. Hubbard incorporates the allegations contained in paragraphs 1 through 98 for this claim.

100. California Civil Code § 51 states, in part, that: All persons within the jurisdiction of this state are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

101. California Civil Code § 51.5 also states, in part, that: No business establishment of any kind whatsoever shall discriminate against any person in this state because of the disability of the person.

102. California Civil Code § 51(f) specifically incorporates (by reference) an individual's rights under the ADA into the Unruh Act.

103. The Subway Defendant' aforementioned acts and omissions denied the physically disabled public—including Hubbard—full and equal accommodations, advantages, facilities, privileges and services in a business establishment (because of their physical disability).

104. These acts and omissions (including the ones that violate the ADA) denied, aided or incited a denial, or discriminated against Hubbard by violating the Unruh Act.

105. Hubbard was damaged by the Subway Defendant's wrongful conduct, and seeks statutory minimum damages of four thousand dollars ($4,000) for each offense.

106. Hubbard also seeks to enjoin the Subway Defendant from violating the Unruh Act (and ADA), and recover reasonable attorneys' fees and costs incurred under California Civil Code § 52(a).

XIII. EIGHTH CLAIM

Denial of Full and Equal Access to Public Facilities

(The Subway Facility)

107. Hubbard incorporates the allegations contained in paragraphs 1 through 106 for this claim.

108. Health and Safety Code § 19955(a) states, in part, that: California public accommodations or facilities (built with private funds) shall adhere to the provisions of Government Code § 4450.

109. Health and Safety Code § 19959 states, in part, that: Every existing (non-exempt) public accommodation constructed prior to July 1, 1970, which is altered or structurally repaired, is required to comply with this chapter.

110. Hubbard alleges the Subway Facility is a public accommodation constructed, altered, or repaired in a manner that violates Part 5.5 of the Health and Safety Code or Government Code § 4450 (or both), and that the Subway Facility was not exempt under Health and Safety Code § 19956.

111. The Subway Defendant's non-compliance with these requirements at the Subway Facility aggrieved (or potentially aggrieved) Hubbard and other persons with physical disabilities. Accordingly, she seeks injunctive relief and attorney fees pursuant to Health and Safety Code § 19953.

XIV. NINTH CLAIM

Americans with Disabilities Act of 1990

Denial of "Full and Equal" Enjoyment and Use

(The Hanaoka Facility)

112. Hubbard incorporates the allegations contained in paragraphs 1 through 111 for this claim.

113. Title III of the ADA holds as a "general rule" that no individual shall be discriminated against on the basis of disability in the full and equal enjoyment (or use) of goods, services, facilities, privileges, and accommodations offered by any person who owns, operates, or leases a place of public accommodation. 42 U.S.C. § 12182(a).

114. The Hanaoka Defendant discriminated against Hubbard by denying "full and equal enjoyment" and use of the goods, services, facilities, privileges or accommodations of the Hanaoka Facility during each visit and each incident of deterrence.

Failure to Remove Architectural Barriers in an Existing Facility

115. The ADA specifically prohibits failing to remove architectural barriers, which are structural in nature, in existing facilities where such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). The term "readily achievable" is defined as "easily accomplishable and able to be carried out without much difficulty or expense." Id. § 12181(9).

116. When an entity can demonstrate that removal of a barrier is not readily achievable, a failure to make goods, services, facilities, or accommodations available through alternative methods is also specifically prohibited if these methods are readily achievable. Id. § 12182(b)(2)(A)(v).

117. Here, Hubbard alleges that the Hanaoka Defendant can easily remove the architectural barriers at the Hanaoka Facility without much difficulty

or expense, and that the Hanaoka Defendant violated the ADA by failing to remove those barriers, when it was readily achievable to do so.

118. In the alternative, if it was not "readily achievable" for the Hanaoka Defendant to remove the Hanaoka Facility's barriers, then the Hanaoka Defendant violated the ADA by failing to make the required services available through alternative methods, which are readily achievable.

Failure to Design and Construct an Accessible Facility

119. On information and belief, the Hanaoka Facility was designed or constructed (or both) after January 26, 1992—independently triggering access requirements under Title III of the ADA.

120. The ADA also prohibits designing and constructing facilities for first occupancy after January 26, 1993, that aren't readily accessible to, and usable by, individuals with disabilities when it was structurally practicable to do so. 42 U.S.C. § 12183(a)(1).

121. Here, the Hanaoka Defendant violated the ADA by designing or constructing (or both) the Hanaoka Facility in a manner that was not readily accessible to the physically disabled public—including Hubbard—when it was structurally practical to do so.[11]

Failure to Make an Altered Facility Accessible

122. On information and belief, the Hanaoka Facility was modified after January 26, 1992, independently triggering access requirements under the ADA.

123. The ADA also requires that facilities altered in a manner that affects (or could affect) its usability must be made readily accessible to individuals with disabilities to the maximum extent feasible. 42 U.S.C. § 12183(a)(2). Altering an area that contains a facility's primary function also requires adding making

[11] Nothing within this Complaint should be construed as an allegation that plaintiff is bringing this action as a private attorney general under either state or federal statutes.

the paths of travel, bathrooms, telephones, and drinking fountains serving that area accessible to the maximum extent feasible. Id.

124. Here, the Hanaoka Defendant altered the Hanaoka Facility in a manner that violated the ADA and was not readily accessible to the physically disabled public—including Hubbard—to the maximum extent feasible.

Failure to Modify Existing Policies and Procedures

125. The ADA also requires reasonable modifications in policies, practices, or procedures, when necessary to afford such goods, services, facilities, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter their nature. 42 U.S.C. § 12182(b)(2)(A)(ii).

126. Here, the Hanaoka Defendant violated the ADA by failing to make reasonable modifications in policies, practices, or procedures at the Hanaoka Facility, when these modifications were necessary to afford (and would not fundamentally alter the nature of) these goods, services, facilities, or accommodations.

127. Hubbard seeks all relief available under the ADA (*i.e.*, injunctive relief, attorney fees, costs, legal expense) for these aforementioned violations. 42 U.S.C. § 12205.

128. Hubbard also seeks a finding from this Court (*i.e.*, declaratory relief) that the Hanaoka Defendant violated the ADA in order to pursue damages under California's Unruh Civil Rights Act or Disabled Persons Act.

XV. TENTH CLAIM

Disabled Persons Act

(The Hanaoka Facility)

129. Hubbard incorporates the allegations contained in paragraphs 1 through 128 for this claim.

130. California Civil Code § 54 states, in part, that: Individuals with disabilities have the same right as the general public to the full and free use of the streets, sidewalks, walkways, public buildings and facilities, and other public places.

131. California Civil Code § 54.1 also states, in part, that: Individuals with disabilities shall be entitled to full and equal access to accommodations, facilities, telephone facilities, places of public accommodation, and other places to which the general public is invited.

132. Both sections specifically incorporate (by reference) an individual's rights under the ADA. See Civil Code §§ 54(c) and 54.1(d).

133. Here, the Hanaoka Defendant discriminated against the physically disabled public—including Hubbard—by denying them full and equal access to the Hanaoka Facility. The Hanaoka Defendant also violated Hubbard's rights under the ADA, and, therefore, infringed upon or violated (or both) Hubbard's rights under the Disabled Persons Act.

134. For each offense of the Disabled Persons Act, Hubbard seeks actual damages (both general and special damages), statutory minimum damages of one thousand dollars ($1,000), declaratory relief, and any other remedy available under California Civil Code § 54.3.

135. He also seeks to enjoin the Hanaoka Defendant from violating the Disabled Persons Act (and ADA) under California Civil Code § 55, and to recover reasonable attorneys' fees and incurred under California Civil Code §§ 54.3 and 55.

XVI. ELEVENTH CLAIM

Unruh Civil Rights Act

(The Hanaoka Facility)

136. Hubbard incorporates the allegations contained in paragraphs 1 through 135 for this claim.

137. California Civil Code § 51 states, in part, that: All persons within the jurisdiction of this state are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

138. California Civil Code § 51.5 also states, in part, that: No business establishment of any kind whatsoever shall discriminate against any person in this state because of the disability of the person.

139. California Civil Code § 51(f) specifically incorporates (by reference) an individual's rights under the ADA into the Unruh Act.

140. The Hanaoka Defendant' aforementioned acts and omissions denied the physically disabled public—including Hubbard—full and equal accommodations, advantages, facilities, privileges and services in a business establishment (because of their physical disability).

141. These acts and omissions (including the ones that violate the ADA) denied, aided or incited a denial, or discriminated against Hubbard by violating the Unruh Act.

142. Hubbard was damaged by the Hanaoka Defendant's wrongful conduct, and seeks statutory minimum damages of four thousand dollars ($4,000) for each offense.

143. Hubbard also seeks to enjoin the Hanaoka Defendant from violating the Unruh Act (and ADA), and recover reasonable attorneys' fees and costs incurred under California Civil Code § 52(a).

XVII. TWELFTH CLAIM

Denial of Full and Equal Access to Public Facilities

(The Hanaoka Facility)

144. Hubbard incorporates the allegations contained in paragraphs 1 through 143 for this claim.

145. Health and Safety Code § 19955(a) states, in part, that: California public accommodations or facilities (built with private funds) shall adhere to the provisions of Government Code § 4450.

146. Health and Safety Code § 19959 states, in part, that: Every existing (non-exempt) public accommodation constructed prior to July 1, 1970, which is altered or structurally repaired, is required to comply with this chapter.

147. Hubbard alleges the Hanaoka Facility is a public accommodation constructed, altered, or repaired in a manner that violates Part 5.5 of the Health and Safety Code or Government Code § 4450 (or both), and that the Hanaoka Facility was not exempt under Health and Safety Code § 19956.

148. The Hanaoka Defendant's non-compliance with these requirements at the Hanaoka Facility aggrieved (or potentially aggrieved) Hubbard and other persons with physical disabilities. Accordingly, she seeks injunctive relief and attorney fees pursuant to Health and Safety Code § 19953.

XVIII. THIRTEENTH CLAIM

Americans with Disabilities Act of 1990

Denial of "Full and Equal" Enjoyment and Use

(The Casa de Oro Facility)

149. Hubbard incorporates the allegations contained in paragraphs 1 through 148 for this claim.

150. Title III of the ADA holds as a "general rule" that no individual shall be discriminated against on the basis of disability in the full and equal enjoyment (or use) of goods, services, facilities, privileges, and accommodations offered by any person who owns, operates, or leases a place of public accommodation. 42 U.S.C. § 12182(a).

151. The Casa de Oro Defendant discriminated against Hubbard by denying "full and equal enjoyment" and use of the goods, services, facilities,

privileges or accommodations of the Casa de Oro Facility during each visit and each incident of deterrence.

Failure to Remove Architectural Barriers in an Existing Facility

152. The ADA specifically prohibits failing to remove architectural barriers, which are structural in nature, in existing facilities where such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). The term "readily achievable" is defined as "easily accomplishable and able to be carried out without much difficulty or expense." Id. § 12181(9).

153. When an entity can demonstrate that removal of a barrier is not readily achievable, a failure to make goods, services, facilities, or accommodations available through alternative methods is also specifically prohibited if these methods are readily achievable. Id. § 12182(b)(2)(A)(v).

154. Here, Hubbard alleges that the Casa de Oro Defendant can easily remove the architectural barriers at the Casa de Oro Facility without much difficulty or expense, and that the Casa de Oro Defendant violated the ADA by failing to remove those barriers, when it was readily achievable to do so.

155. In the alternative, if it was not "readily achievable" for the Casa de Oro Defendant to remove the Casa de Oro Facility's barriers, then the Casa de Oro Defendant violated the ADA by failing to make the required services available through alternative methods, which are readily achievable.

Failure to Design and Construct an Accessible Facility

156. On information and belief, the Casa de Oro Facility was designed or constructed (or both) after January 26, 1992—independently triggering access requirements under Title III of the ADA.

157. The ADA also prohibits designing and constructing facilities for first occupancy after January 26, 1993, that aren't readily accessible to, and usable by, individuals with disabilities when it was structurally practicable to do so. 42 U.S.C. § 12183(a)(1).

158. Here, the Casa de Oro Defendant violated the ADA by designing or constructing (or both) the Casa de Oro Facility in a manner that was not readily accessible to the physically disabled public—including Hubbard—when it was structurally practical to do so.[12]

Failure to Make an Altered Facility Accessible

159. On information and belief, the Casa de Oro Facility was modified after January 26, 1992, independently triggering access requirements under the ADA.

160. The ADA also requires that facilities altered in a manner that affects (or could affect) its usability must be made readily accessible to individuals with disabilities to the maximum extent feasible. 42 U.S.C. § 12183(a)(2). Altering an area that contains a facility's primary function also requires adding making the paths of travel, bathrooms, telephones, and drinking fountains serving that area accessible to the maximum extent feasible. Id.

161. Here, the Casa de Oro Defendant altered the Casa de Oro Facility in a manner that violated the ADA and was not readily accessible to the physically disabled public—including Hubbard—to the maximum extent feasible.

Failure to Modify Existing Policies and Procedures

162. The ADA also requires reasonable modifications in policies, practices, or procedures, when necessary to afford such goods, services, facilities, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter their nature. 42 U.S.C. § 12182(b)(2)(A)(ii).

163. Here, the Casa de Oro Defendant violated the ADA by failing to make reasonable modifications in policies, practices, or procedures at the Casa de Oro Facility, when these modifications were necessary to afford (and would

[12] Nothing within this Complaint should be construed as an allegation that plaintiff is bringing this action as a private attorney general under either state or federal statutes.

not fundamentally alter the nature of) these goods, services, facilities, or accommodations.

164. Hubbard seeks all relief available under the ADA (*i.e.*, injunctive relief, attorney fees, costs, legal expense) for these aforementioned violations. 42 U.S.C. § 12205.

165. Hubbard also seeks a finding from this Court (*i.e.*, declaratory relief) that the Casa de Oro Defendant violated the ADA in order to pursue damages under California's Unruh Civil Rights Act or Disabled Persons Act.

XIX. FOURTEENTH CLAIM

Disabled Persons Act

(The Casa de Oro Facility)

166. Hubbard incorporates the allegations contained in paragraphs 1 through 165 for this claim.

167. California Civil Code § 54 states, in part, that: Individuals with disabilities have the same right as the general public to the full and free use of the streets, sidewalks, walkways, public buildings and facilities, and other public places.

168. California Civil Code § 54.1 also states, in part, that: Individuals with disabilities shall be entitled to full and equal access to accommodations, facilities, telephone facilities, places of public accommodation, and other places to which the general public is invited.

169. Both sections specifically incorporate (by reference) an individual's rights under the ADA. See Civil Code §§ 54(c) and 54.1(d).

170. Here, the Casa de Oro Defendant discriminated against the physically disabled public—including Hubbard—by denying them full and equal access to the Casa de Oro Facility. The Casa de Oro Defendant also violated Hubbard's rights under the ADA, and, therefore, infringed upon or violated (or both) Hubbard's rights under the Disabled Persons Act.

171. For each offense of the Disabled Persons Act, Hubbard seeks actual damages (both general and special damages), statutory minimum damages of one thousand dollars ($1,000), declaratory relief, and any other remedy available under California Civil Code § 54.3.

172. She also seeks to enjoin the Casa de Oro Defendant from violating the Disabled Persons Act (and ADA) under California Civil Code § 55, and to recover reasonable attorneys' fees and incurred under California Civil Code §§ 54.3 and 55.

XX. FIFTEENTH CLAIM

Unruh Civil Rights Act

(The Casa de Oro Facility)

173. Hubbard incorporates the allegations contained in paragraphs 1 through 172 for this claim.

174. California Civil Code § 51 states, in part, that: All persons within the jurisdiction of this state are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

175. California Civil Code § 51.5 also states, in part, that: No business establishment of any kind whatsoever shall discriminate against any person in this state because of the disability of the person.

176. California Civil Code § 51(f) specifically incorporates (by reference) an individual's rights under the ADA into the Unruh Act.

177. The Casa de Oro Defendant's aforementioned acts and omissions denied the physically disabled public—including Hubbard—full and equal accommodations, advantages, facilities, privileges and services in a business establishment (because of their physical disability).

178. These acts and omissions (including the ones that violate the ADA) denied, aided or incited a denial, or discriminated against Hubbard by violating the Unruh Act.

179. Hubbard was damaged by the Casa de Oro Defendant's wrongful conduct, and seeks statutory minimum damages of four thousand dollars ($4,000) for each offense.

180. Hubbard also seeks to enjoin the Casa de Oro Defendant from violating the Unruh Act (and ADA), and recover reasonable attorneys' fees and costs incurred under California Civil Code § 52(a).

XXI. SIXTEENTH CLAIM

Denial of Full and Equal Access to Public Facilities

(The Casa de Oro Facility)

181. Hubbard incorporates the allegations contained in paragraphs 1 through 180 for this claim.

182. Health and Safety Code § 19955(a) states, in part, that: California public accommodations or facilities (built with private funds) shall adhere to the provisions of Government Code § 4450.

183. Health and Safety Code § 19959 states, in part, that: Every existing (non-exempt) public accommodation constructed prior to July 1, 1970, which is altered or structurally repaired, is required to comply with this chapter.

184. Hubbard alleges the Casa de Oro Facility is a public accommodation constructed, altered, or repaired in a manner that violates Part 5.5 of the Health and Safety Code or Government Code § 4450 (or both), and that the Casa de Oro Facility was not exempt under Health and Safety Code § 19956.

185. The Casa de Oro Defendant's non-compliance with these requirements at the Casa de Oro Facility aggrieved (or potentially aggrieved) Hubbard and other persons with physical disabilities. Accordingly, she seeks injunctive relief and attorney fees pursuant to Health and Safety Code § 19953.

XXII. PRAYER FOR RELIEF

WHEREFORE, Hubbard prays judgment against the Pizza Hut Defendant for:

1. Injunctive relief, preventive relief, or any other relief the Court deems proper.

2. Declaratory relief that the Pizza Hut Defendant violated the ADA for the purposes of Unruh Act or Disabled Persons Act damages.

3. Statutory minimum damages under either sections 52(a) or 54.3(a) of the California Civil Code (but not both) according to proof.

4. Attorneys' fees, litigation expenses, and costs of suit.[13]

5. Interest at the legal rate from the date of the filing of this action.

XXIII. PRAYER FOR RELIEF

WHEREFORE, Hubbard prays judgment against the Subway Defendant for:

1. Injunctive relief, preventive relief, or any other relief the Court deems proper.

2. Declaratory relief that the Subway Defendant violated the ADA for the purposes of Unruh Act or Disabled Persons Act damages.

3. Statutory minimum damages under either sections 52(a) or 54.3(a) of the California Civil Code (but not both) according to proof.

4. Attorneys' fees, litigation expenses, and costs of suit.[14]

5. Interest at the legal rate from the date of the filing of this action.

XXIV. PRAYER FOR RELIEF

WHEREFORE, Hubbard prays judgment against the Hanaoka Defendant for:

1. Injunctive relief, preventive relief, or any other relief the Court deems proper.

2. Declaratory relief that the Hanaoka Defendant violated the ADA for the purposes of Unruh Act or Disabled Persons Act damages.

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[13] This includes attorneys' fees under California Code of Civil Procedure § 1021.5.

[14] This includes attorneys' fees under California Code of Civil Procedure § 1021.5.

3. Statutory minimum damages under either sections 52(a) or 54.3(a) of the California Civil Code (but not both) according to proof.

4. Attorneys' fees, litigation expenses, and costs of suit.[15]

5. Interest at the legal rate from the date of the filing of this action.

XXV. PRAYER FOR RELIEF

WHEREFORE, Hubbard prays judgment against the Casa de Oro Defendant for:

1. Injunctive relief, preventive relief, or any other relief the Court deems proper.

2. Declaratory relief that the Casa de Oro Defendant violated the ADA for the purposes of Unruh Act or Disabled Persons Act damages.

3. Statutory minimum damages under either sections 52(a) or 54.3(a) of the California Civil Code (but not both) according to proof.

4. Attorneys' fees, litigation expenses, and costs of suit.[16]

5. Interest at the legal rate from the date of the filing of this action.

DATED: June 19, 2008 DISABLED ADVOCACY GROUP, APLC

LYNN HUBBARD, III
Attorney for Plaintiff, Barbara Hubbard

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[15] This includes attorneys' fees under California Code of Civil Procedure § 1021.5.

[16] This includes attorneys' fees under California Code of Civil Procedure § 1021.5.

UNITED STATES
DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

152183 - TC

June 23, 2008
15:10:19

Civ Fil Non-Pris
USAO #.: 08CV1111
Judge..: NITA L STORMES
Amount.: $350.00 CC

Total-> $350.00

FROM: HUBBARD VS. PIZZA HUT
(SWEETWATER CROSSING)

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

FILED
JUN 23 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
Barbara Hubbard

(b) County of Residence of First Listed Plaintiff SAN DIEGO
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
LYNN HUBBARD, III DISABLED ADVOCACY GROUP, APLC
12 Williamsburg Lane Chico, CA 95926 (530) 895-3252

DEFENDANTS
SEE ATTACHED LIST

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)
'08 CV 1111 L NLS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury - Med. Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 444 Welfare
- ☐ 445 Amer. w/Disabilities - Employment
- ☒ 446 Amer. w/Disabilities - Other
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence
- Habeas Corpus:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition

FORFEITURE/PENALTY
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 630 Liquor Laws
- ☐ 640 R.R. & Truck
- ☐ 650 Airline Regs.
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt.Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 463 Habeas Corpus - Alien Detainee
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 875 Customer Challenge 12 USC 3410
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (**Do not cite jurisdictional statutes unless diversity**):
42 U.S.C. Section 12101, et seq.

Brief description of cause:
Ongoing violations of the ADA Construction Standards

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND $** CHECK YES only if demanded in complaint: **JURY DEMAND:** ☐ Yes ☑ No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE DOCKET NUMBER

DATE 06/19/2008 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

CR

LIST OF DEFENDANTS

1. Pizza Hut, Inc. dba Pizza Hut #315059
2. Jehova Jireh, Inc. dba Subway #4623
3. Hanaoka Enterprises, Inc. dba Hanaoka Japanese Restaurant
4. Clementina Deniz dba Casa de Oro